FD-350 (Rev. 7-16-63)

# Ray's Former Attorney Calls Assassination of King 'Political'

## Hanes Tells Of Arguing Extradition

By KAY PITTMAN BLACK
and TOM JONES
Press-Scimitar Staff Writers

One of James Earl Ray's original attorneys said on the Federal Court witness stand today that he thought the slaying of Dr. Martin Luther King Jr. in Memphis was a "political killing" and that Ray could have avoided extradition from England on murder charges.

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Arthur Hanes Sr., former mayor of Birmingham, Ala., made the statement under cross-examination by one of Ray's attorneys, Bernard Fensterwald, of Washington, D.C.

Hanes and his son, Arthur Hanes Jr., represented Ray shortly after Ray's arrest in England and until Nov. 12, 1968, when Ray fired them and replaced them with Percy Foreman, of Houston, Tex.

**Under English treaty arrangements** with the U.S., any person charged with committing a political killing cannot be extradited, said Hanes, who then testified that he believed if Ray had had the "finances to bring the witnesses over to England," he could have successfully fought extradition —and thereby never returned to the United States to face charges in the King slaying.

Hanes said he advised Ray that if he had a lawyer in England "they would not have extradited him."

"In my judgment, it was a political killing, and not an extraditable offense under that (existing extradition) treaty," said the 58-year-old lawyer. "I argued with him (Ray), but he wanted to come back home."

Hanes said he did not persist because Ray told him "he was tired of being there (England) and wanted to come home to America."

Hanes did not explain what he meant by "political" killing.

**Ray's attorneys are arguing** that Hanes did not advise Ray to fight extradition because Hanes was more interested in obtaining money from a book contract with Alabama author William Bradford Huie than in looking out for Ray's interests.

Hanes' testimony today clashed with that given earlier by Ray, who said he wanted to fight extradition but that Hanes told him to "just come on back and stand trial."

Hanes said he conferred with Ray on the extradition issue after he was called to England at Ray's request.

Hanes identified a contract that he and Ray had signed with Huie which provided for payments, in increments for a total of $35,000 to start going to Hanes and Ray upon Ray's return to the United States and the Shelby County Jail.

Like Ray, Hanes denied knowledge of some of the Huie contracts, particularly those involving rights for the book, "He Slew the Dreamer."

Hanes said he was "amazed" when shown the Huie-Dell Publishing Co. contract which specified that none of the proceeds from the work could be used to benefit Ray directly or indirectly. Hanes said he believed all of the Ray defense money to be coming from Look magazine articles written by Huie.

**Hanes also suggested that** the prosecution may have "had a hand" in having Foreman retained as Ray's lawyer in order to insure a conviction.

He testified that he suspected that former U.S. Attorney General Ramsey Clark was involved in Foreman being placed on the case.

"You can imagine all kinds of things. There was a lot of heat in Memphis at that time," Hanes said. "I think the power structure was shaken up and felt like they had to have a conviction. They felt the state had a weak case and something had to be done. I thought maybe Ramsey Clark might have had a hand in it."

Hanes added: "An awful lot apparently went on behind my back."

**Hanes said he was "shocked"** to learn of Ray's guilty plea on March 10, 1969. He also refuted Ray's attorneys' contention that Ray was coerced by Foreman into pleading guilty.

"In my opinion, James Earl Ray was an intelligent person, strong-willed," said Hanes. "I'm just at a loss to explain it. It was hard for me to believe he would do anything he didn't want to do."

Hanes said a major weakness in the state's case was caused by the FBI ballistics test, which could not positively link the bullet which killed Dr. Martin Luther King Jr. to the rifle Ray purchased.

"The state was in trouble," said Hanes. "The FBI man would have to tell me that six million other 30.06s (rifle) could have fired the bullet which killed Dr. King."

**Hanes was then asked** about his visit to the law offices of Russel X Thompson, who earlier testified that Hanes wanted to hire him as Ray's local attorney.

However, Hanes testified: "I went to see him for the purpose of psyching up the public. I knew Mr. Thompson had represented black organizations. I knew I wanted to lay out my theory of a conspiracy. I wanted Mr. Thompson to put out the information and sure enough he did."

Hanes said he visited Thompson once, but never discussed hiring him on the case. He added that he discussed the possibility that militant groups killed King.

"I thought perhaps black militant organizations were behind Dr. King's slaying," said Hanes. "If this theory was correct, Dr. King knew it and knew it before he was killed. That meant Coretta King (King's wife) knew it, too. I wanted Thompson to talk with her about it, and we talked about him perhaps setting up a trip to Atlanta to see if she knew anything."

**Hanes' testimony today** followed on the heels of his disclosure for the first time late yesterday that Ray told him he was standing on the sidewalk outside the rooming house at 422½ S. Main when Dr. King was killed on April 4, 1968.

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Hanes, testifying as a court witness before U.S. District Judge Robert M. McRae Jr., said Ray told him he had driven to Memphis upon the orders of "his contact."

Hanes said that Ray told him that on "Tuesday night, April 2, (1968), the gun he bought in Birmingham was taken from him at a motel in Mississippi.

"He never saw the gun again until it was thrown down with his suitcase and binoculars. On Tuesday, when his contact took the gun, he gave (Ray) a note with the address of the rooming house (at 422½ S. Main). He told him (Ray) to be there on Thursday, April 4, at 3 p.m."

After renting a room at the boarding house, Hanes quoted Ray as saying, his contact told him "to park in front of the rooming house." The contact also instructed Ray to buy him a pair of binoculars.

At 5:20 p.m., Hanes said Ray told him "his contact said, 'Jim, go down and get a beer. I'm going to wash up and shave and we'll go eat.'

"Jim said he had a beer or two and was standing on the sidewalk at 6:00 or 6:01 when the shot (which killed Dr. King) was fired. When he saw the gun tied to his suitcase, he knew someone had been hurt and he was in trouble and he fled."

Hanes said Ray identified the contact as "Raoul," who recruited him for an illegal gun-running operation.

Hanes' account of the conversations marked the first time Ray's whereabouts at the time of the King slaying have been revealed in the evidentiary hearing to determine if Ray, sentenced to 99 years in prison after pleading guilty to King's slaying, should be granted a new trial. Ray has contended that he was pressured into pleading guilty by Foreman.

King was fatally shot at 6:01 p.m. while standing on the balcony of the Lorraine Motel at 406 Mulberry, which is located behind the rooming house on South Main.

Hanes emphasized that Ray refused to listen to any suggestions concerning guilty pleas. "James Earl Ray would never authorize me to plea bargain with the attorney general," said Hanes. "He always insisted on trial."

Questioned by Asst. State Atty. Gen. Henry Haile, Hanes discounted Ray's attorneys' suggestions that his contracts with Huie, for rights to books concerning the slaying, influenced Ray's defense.

"He had absolutely no influence," said Hanes. "He had no say-so over the trial of the case."

Also testifying yesterday was Arthur Hanes Jr. Both attorneys testified that they are convinced King's slaying was part of a conspiracy.

"We reached the conclusion that it had to be a conspiracy," said Hanes Sr. "We have kept up with it since, and have not run across anything to change our minds."

Hanes Jr. said Huie was contacted "as another aspect of the defense." He said Huie's articles were intended to counteract Ray's portrait by the press as an "inhuman murderer."

"We felt like it was necessary to do something to humanize the man, to get the thinking back toward the middle, to make James Earl Ray a person again," he said. The book contract was signed by the attorneys, but was intended to boost Ray's defense, said Hanes Jr.

Both attorneys testified that they were prepared to try the case on Nov. 12, 1968, but were unexpectedly fired by Ray two days earlier.

"I think we had a terrific chance to win the case," said Hanes Jr. "We were very disappointed when we were relieved." He added that most of the state's case was circumstantial and "had a lot of holes in it."

Hanes Jr. said one defense concerned the "bush man theory," explaining that several witnesses were prepared to testify that the shot came from the bushes behind the rooming house, and not from an upstairs bathroom window.

He said the state located only two eyewitnesses who could furnish descriptions of the man who allegedly shot King. One witness, Charles Q. Stephens, identified Ray but could be discredited, said Hanes Jr.

Stephen's wife, Grace, the other witness, contradicted her husband's statement and said the man "was diminuitive . . . wearing an Army jacket," according to Hanes Jr. He said she was admitted to a psychiatric hospital shortly after the slaying.

Hanes added that the Army jacket found in the trunk of Ray's car was too small for Ray.

Hanes Jr. said the FBI had found "huge footprints behind the rooming house. We were going to use those, too. We were going to try giants and midgets and trolls and everyone else down there other than James Earl Ray."

Both witnesses testified that Foreman spent little time familiarizing himself with their files, which were complied during a five-month investigation.

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# RAY DENIES KING ASSASSINATION

## Says Lawyer Maneuvered Guilty Plea

By KAY PITTMAN BLACK
And TOM JONES
Press-Scimitar Staff Writers

James Earl Ray testified today in federal court that he told his attorneys he did not kill Dr. Martin Luther King Jr., but was "maneuvered" into pleading guilty by his attorney, Percy Foreman of Houston, Texas.

Ray, who began his second day of testimony in his evidentiary hearing before U.S. District Judge Robert M. McRae Jr., was asked by James Lesar, one of Ray's attorneys,

"Did Mr. (Arthur) Hanes (Ray's first lawyer) ask you if you were guilty of the murder of Dr. Martin Luther King?"

"I just told him, 'No,'" answered Ray.

"Did Mr. Foreman ever ask you?" asked Lesar.

"He never asked me directly," replied Ray. "Sometime in early February (1969) he asked me to write all the details of what I did from the time I escaped from the penitentiary in Missouri to the time I was arrested.

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"I wrote everything up until the time I got arrested in England. I just assumed he read that and concluded I wasn't in that particular area, and that I was not guilty."

Ray also testified that he was unaware that Foreman and Hanes had signed a contract with Look Magazine for articles, but that the agreement was contingent upon a guilty plea.

Although the contract was signed March 17, 1969, Lesar contended that it was written before Ray pleaded guilty.

**Ray said he was convinced** that his guilty pleas was a "technical" move which would enable him to fire Foreman. "It was my distinct impression that the plea would be some kind of technical plea to get me out of town," he added.

Ray said Foreman first mentioned the idea of pleading guilty in a Feb. 13, 1969, letter. In the letter, Foreman wrote:

"I have spent several weeks reviewing the nature of the case the state of Tennessee has against you. I have surveyed jury sentiment in this county and jury verdicts in other recent cases.

**"In my opinion, there is** little more than a 99 per cent chance of your receiving the death penalty verdict if you go to trial. Furthermore, there is 100 per cent chance of a guilty verdict. Neither I nor any other lawyer can change the overwhelming evidence that has been assembled against you."

Ray said in earlier conversations with Foreman, "I told him it (guilty plea) was ridiculous. The state was relying on mostly circumstantial evidence. The most the state could get me on was aiding and abetting."

Ray said Foreman "tried to give me the impression" the jury would be stocked with blacks and "chamber of commerce types." Foreman had earlier told him that he "could prove I wasn't the shooter," said Ray. "I had the feeling this was kind of a blitz on his part."

**Ray said on Feb. 18, 1969,** he signed a letter drafted by Foreman agreeing to plead guilty. He said there was no indication on the letter that Foreman had written it.

After he was unable to convince Foreman to go to trial. Ray said he agreed to modifying his literary contract with Foreman. He said Foreman agreed to settle for $165,000 if a guilty plea were entered. An earlier contract entitled Foreman all royalties, from motion pictures and books.

Ray said he hoped that by modifying the contract, he would later have enough money to hire another lawyer. Ray said the new contract contained a provision that Ray would not create any "embarrassing circumstances" in court.

**Ray said he felt he could** not fire Foreman before the hearing because the late Criminal Court Judge Preston Battle had warned him against another change of attorneys.

Ray testified that two days after pleading guilty on March 10, 1969, he wrote letters repudiating the plea and suggesting that he "could be involved in some type of crime and not be aware of it."

"I suppose the people who manufactured the rifle could to some extent be held responsible although they didn't have direct involvement," he said.

"Did you assume the rifle found on South Main was used to kill King?" asked Lesar.

"I didn't make no strong assumption in that area," said Ray.

**Ray said one of the letters** he wrote two days after his guilty plea was to Sen. James Eastland, D-Miss. He said he told Eastland: "I personally did not shoot Dr. Martin Luther King, but I believe I am partly responsible for his death."

Ray said, however, recalling the day in court when he pleaded guilty, that he had objected to Foreman's statements to the jury that implied there was no conspiracy in the King killing. Ray said it seemed to him that Foreman was agreeing with then U.S. Atty. Gen. Ramsey Clark and the late FBI director J. Edgar Hoover that he was the "lone nut" who killed King.

Ray earlier testified today that he was having "some trouble" with his eyesight at the time of the slaying of Dr. King, and that this would be used in his defense if he gets a new trial. The state contends that King was shot from a distance of about 270 feet.

Ray said that after his escape from the Missouri State Penitentiary, he had his eyes checked by a doctor in Birmingham, and was given glasses to wear "temporarily."

Speaking of the possibility of a new trial, Ray said there was some discussion between Ray and Hanes that "the condition of my eyes would be relevant."

**King was said by the government** to have been shot while standing on the balcony of the Lorraine Motel and that the shot was fired from a bathroom window at the back of a rooming house, overlooking the motel.

Ray did not elaborate on his eyesight statement.

Meanwhile, in Washington, the Supreme Court today rejected Tennessee's efforts to block production of evidence in the current evidentiary hearing for Ray.

**Ray, who is serving a 99-**year sentence, claims the plea was forced on him by Foreman so that Foreman could profit from a book about the killing. Ray said a trial would have publicized more information about the case and reduced

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After the 6th U.S. Circuit Court of Appeals ordered the current hearing into Ray's charges, Judge McRae granted motions to bring into court a great deal of evidence, including correspondence of Foreman and William Bradford Huie, author of the book, "He Slew the Dreamer."

The state asked the Supreme Court to vacate McRae's orders on the ground that they are "unwarranted invasions of individual and corporate privacy."

Ray was in his second day on the stand today in the second week of the evidentiary hearing before Judge McRae, and he was still being examined by Lesar. Ray started testifying Friday.

As he did Friday, Ray continued his discussion of the events that preceded his guilty plea.

Ray fired Hanes and Foreman took over the case on Nov. 12, 1968. Ray said he only saw Foreman "three or four times" between November and January, but maintained that Foreman as late as February, 1969, was still readying for trial of the case.

Ray said that around Jan. 3, he read an article in a Memphis newspaper indicating that the possibility of a guilty plea was being discussed.

"I asked Mr. Foreman about it, I thought the story probably came from the state, and Mr. Foreman said to forget it, it didn't mean anything," said Ray.

Shelby County Atty. Gen. Hugh Stanton Jr., formerly assistant public defender, who along with his father, Hugh Stanton, was appointed by Judge Battle to assist Foreman in preparation of the Ray case, testified last week that his father had first discussed the possibility of a guilty plea with former Atty. Gen. Phil Canale in December.

In February, Ray testified, Foreman visited him at Shelby County Jail and showed him "about 10 or 12 pictures" that he wanted Ray to identify.

Ray's attorneys have contended that Ray did not know he was coming to Memphis to participate in a shooting, but instead thought he was here to buy guns and was accompanied by a mysterious man known to them only as "Raoul."

Ray said he "got the impression" that Foreman wanted him to identify the pictures of the individuals — "the majority of the individuals were of Latin origin," said Ray — for the government.

"I got the impression he wanted me to identify one of those individuals as the person who shot Martin Luther King . . . I told him (Foreman), for several reasons, I didn't want to get involved in that type of operation. They would put me as a state's witness . . ." said Ray.

JAMES EARL RAY

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# Ray Ready to Testify In Bid for New Trial

## Huie's Book Figures In Testimony

By TOM JONES
and KAY PITTMAN BLACK
Press-Scimitar Staff Writers

James Earl Ray prepared to take the witness stand in Federal Court today in his bid for a new trial in the slaying of Martin Luther King.

Ray was preceded on the stand by two brothers in the attempt to prove that Houston lawyer Percy Foreman forced him into the guilty plea which brought him a life sentence in the slaying.

Jerry Ray, the second of the two brothers to testify, said Alabama author William Bradford Huie asked him to tell James Earl not to take the stand in his own defense at his 1969 murder trial because such action would hurt the sale of Huie's book, "He Slew a Dreamer."

Jerry Ray, formerly of St. Louis and now living in Illinois, was called as the 17th witness in the Federal Court evidentiary hearing for Ray, who is serving a 99-year prison sentence for the April 4, 1968 slaying of King.

Huie, of Hartselle, Ala., had entered into a three-way contract with himself, Ray's lawyers and Ray sharing the profits from the Huie book.

(Indicate page, name of newspaper, city and state.)

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Jerry Ray and Ray's other brother, John, now serving time on bank robbery charges in an Illinois prison, testified, however, that Ray did not get any of the book profits.

Ray's initial trial date was set for Nov. 12, 1968. Arthur Hanes Sr. of Birmingham, Ala., was his attorney at the time.

Jerry Ray testified that Huie told him to tell James Earl Ray not to take the stand because Ray's story would become public knowledge and he "wouldn't have a book."

Jerry Ray said Huie "suggested I get from James names of others involved in the crime so they could have them arrested and have the arrests correlated with the date of the publication of the book."

Recalling his meetings with Foreman after the Texas lawyer took over the case, Jerry Ray said Foreman told him "it would be the easiest case he had ever had to try in his life.

"Mr. Foreman was always bragging about the people he got off. He told me about one woman he represented who shot her husband and left the house. Then she got to thinking that she might not really have killed him, so she went back and shot him three or four more times, in front of witnesses. Mr. Foreman said, "I got her acquitted, so just think what I can do for your brother'."

Jerry Ray said of Foreman, "He told me he had tried more murder cases than Clarence Darrow ever did in his life.

"He told me he put everybody (but the defendant) on trial. He said he was going to put King on trial and when he got through trying King they'd (the jury) would want to lynch him."

James Lesar, one of Ray's Washington, D.C., attorneys, asked Jerry Ray, "Did you call him Mr. Foreman?"

"No," said Jerry Ray. "He said everybody in Texas called him the Texas Tiger and that was what I was supposed to call him."

Jerry Ray said Foreman indicated until early March that he was ready to go to trial.

"Then he came to my sister's house in Missouri and met with all of us in the family and tried to get us to talk James into changing his plea to guilty. He showed us a letter James had written him listing 10 reasons why James didn't want to plead guilty.

"The first reason — I don't remember the others — was that he was not guilty," said Jerry Ray. "He said that if James didn't change his plea he would either get a hung jury or would burn. None of us had any intention of trying to get him to change his plea."

Jerry Ray said four or five days before Ray changed his plea on March 10, 1969, Huie called him in St. Louis and told him "to get to Memphis. The case is over."

Another of Ray's brothers, John Larry, said that two days before pleading guilty to the slaying, James Earl Ray said he was opposed to the plea.

John Ray, being questioned by Asst. State Atty. Gen. Henry Haile, said he visited his brother in the Shelby County jail March 8, 1968, two days before the guilty plea.

"What did you talk about?" asked Haile.

"He didn't want to enter the plea of guilty," said the witness. "He said Foreman had him boxed in and there was no way out."

John Ray said he also discussed the possibility of James Earl Ray going to trial with a public defender representing him. "He said Foreman had all his money and he couldn't hire a lawyer anyway.

John Ray said that the morning after the guilty plea in Criminal Court, Foreman withdrew all Ray's "trial defense" money from a Union Planters Bank account.

The witness said Foreman emptied the account, which contained about $10,000.

Haile questioned John Ray extensively about conversations with his brother.

"Did Jimmy ever talk about leaving the country?" asked Haile.

"He could have — he mentioned South America and Rhodesia," replied John Ray. "I don't never know why he talked about it."

Haile then asked the witness if he had not told the FBI that James Earl Ray had admired Rhodesia's segregationist government.

"I might have told the FBI anything," he said.

Speaking quickly and mumbling some of his testimony, John Ray testified to his own criminal history, but added, "I will plead guilty to about anything if I'm guilty of it."

However, he denied that he had "a long criminal history." Presently serving 18 years in prison on being an accessory to a bank robbery, John Ray said he had earlier entered guilty plea to grand larceny.

"Did you attempt a jail break?" asked Haile.

"I never was convicted of jail break," answered John Ray.

"You didn't make it," said Haile. "They got you as you were going out the window with the rope."

John Ray smiled and shrugged, saying, "Well, they got me."

John Ray avoided direct answers to Haile's questions concerning his position on white supremacy, but acknowledged that he received the newspaper, "Thunderbolt," published by the National States Rights Party.

John Ray said he once discussed the possibility of having J. B. Stoner, an attorney and head of the ultra-conservative organization, represent James Earl Ray.

Haile then read an article from "Thunderbolt" which

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criticized the FBI for devoting manpower to finding King's killer. The article said the investigation into the "execution of the infamous Communist agitator" was a "waste" of taxpayer's money.

John Ray claimed he had no political beliefs, but Stoner was "a politician—he's liable to say anything."

The defendant's brother testified yesterday that when Foreman was hired the attorney reported to the Ray family that "there was no evidence against him (James Ray) and that he would have him on the street in no time."

Questioned by Lesar, John Ray testified that Foreman said "he was going to get TV films of Martin Luther King, turn the volume up when King was speaking, show cities burning down and riots.

"He said the jury would have shot King themselves. He said he worked on the jury emotions. He said the people might run down the street and shoot people when he was through."

John Ray said, however, that Foreman abruptly changed his position on the case and asked the Ray family to convince James Earl Ray to plead guilty.

"Mr. Foreman said he wanted James to enter the plea of guilty but James wouldn't do it," John Ray testified. "Mr. Foreman said there would be a blue-ribbon jury—upper class. He said they didn't want to see the city of Memphis burned down so that type of people would convict so Memphis wouldn't be burned down."

John Ray testified that Foreman's first act after being consulted about defending James Earl Ray was to ask to review the book contracts between Huie and Hanes.

"He said it would be easy to break them," he said.

Ray's present attorneys have contended that Foreman's contract with Huie prevented Ray from receiving adequate representation.

During the discussion about his brother's defense, John Ray said Foreman "came up with a lot of deals. One deal he said was to plead not guilty and say he killed King because he was a Communist, but Jimmy wouldn't go along with it."

Foreman also suggested that John Jay Hooker Jr., a Nashville attorney, be hired as co-counsel. He said the case would give Hooker "a half million dollars worth of publicity and Hooker would pardon Jimmy" if elected.

Lesar asked John Ray if he was sure whether Foreman was referring to John Jay Hooker Sr. or Jr.

"The guy who lost the election for governor and was running again," replied John Ray. Hooker Jr. ran as a Democratic candidate for governor in 1966 and 1970.

In another development, a document filed as evidence in the hearing late yesterday indicated that Huie told the Shelby County Grand Jury shortly before Ray pleaded guilty that "Ray and Ray alone" killed King.

A transcript of Huie's testimony on Feb. 7, 1969, before the grand jury shows that he was questioned by Phil Canale, former Shelby County attorney general, and by Criminal Appeals Court Judge Robert K. Dwyer and Criminal Court Judge James Beasley, both of whom were assistants to Canale at the time.

Huie was asked if he had any evidence that any co-conspirators in the King assassination were "in Memphis, Los Angeles, Birmingham or New Orleans."

Huie said to the grand jury, "No, the answer would be no to this."

Then Huie told the grand jury, "I have never had the slightest doubt that Ray and Ray alone killed Dr. King."

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—Press-Scimitar Staff Sketch by Henry Bailey

**RAY LISTENS TO BROTHER'S TESTIMONY**
At left in Federal Courtroom is U.S. Marshal Charles Meadows.

—Press-Scimitar Staff Sketch by Henry Bailey

**JOHN LARRY RAY, LEFT, AND ASST. STATE ATTY. GEN. HENRY HAILE**

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(Mount Clipping in Space Below)

# Ray Blames Publishing Contracts For Weak Defense

By MICHAEL LOLLAR
and JAMES COLE

James Earl Ray took the witness stand in federal court yesterday and described how publishing contracts hamstrung his defense in the death of Dr. Martin Luther King Jr.

Although Ray testified for more than two hours, he was never asked by his attorney about events immediately surrounding the April 4, 1968, assassination of King nor was a conspiracy mentioned.

Ray was particularly critical of Alabama author William Bradford Huie. He claimed Huie was disclosing inside information that undermined his defense.

Before Ray entered a guilty plea in the King death in Criminal Court, Huie negotiated contracts to publish a book giving Ray's exclusive story of the assassination.

Ray said he assumed his part of the money from the sale of Huie's book and magazine articles would be used to pay for his defense.

"It appeared I was being a state's witness against myself for a few dollars," he said.

Ray, who was extradited from England on July 19, 1968, said he wrote a letter to attorney Arthur Hanes of Birmingham, Ala., about handling the case for him. At the time Ray was being held in a London jail.

He said when he first met Hanes, the attorney had him sign a publishing contract. Under the contract, Hanes was to receive 40 per cent of the proceeds. Ray said Huie's name was not mentioned until later.

"Mr. Hanes recommended I drop the

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appeal (of the extradition ruling) and return to the United States . . . He just said he thought I ought to come back and face the charges."

Attorney James Lesar showed Ray a letter dated July 8 from Huie to Hanes outlining the terms of the book contract. One provision of the terms required Ray's return to the United States before any advance payments would be made to Hanes and Ray.

Ray's present attorneys are seeking to prove their client was deprived of adequate legal counsel, first from Hanes and later from attorney Percy Foreman of Houston, before Ray pleaded guilty to the King slaying March 10, 1969, in Criminal Court.

Ray said he first became irritated with Huie when he saw the author on television being interviewed outside the meeting room of the Shelby County Grand Jury.

"He was on TV and someone asked how many people were involved in the King murder, and I think he raised three or four fingers."

**Ray said he was unaware of a contract**, dated Nov. 20, 1969, that Huie signed with Dell Publishing Co., Inc. Under its terms, no sale proceeds could be used for Ray's defense.

"I didn't know that, just a suspicion. I didn't know the contract was in existence," Ray said.

In that contract the proposed title for Huie's book was "They Slew the Dreamer." When Huie published his book in 1970, it was entitled, "He Slew the Dreamer."

Ray said he thought pretrial publicity of his trial harmed his case.

"Well, it was such a massive scale. One example, I think the day before I was going on trial, I believe on Nov. 12 or on Nov. 10, a long article come out in The Commercial Appeal and, of course, they treated the prosecution in glowing terms and described Hanes as a KKK (Ku Klux Klan) lawyer or something. And I thought that type of thing might influence the juries.

James Earl Ray

Ray claimed that in early November his brother, Jerry Ray, had a discussion with Huie in Alabama about the impending trial, which was originally scheduled for Nov. 12.

He said his brother reported to him that Huie warned that Ray should not take the witness stand at the trial.

**"My brother told me that Huie told** him if I did take the witness stand in a trial, it would probably destroy his book or something like that. It would all be published in the newspaper before he could publish the book."

Ray said his brother suggested during that conversation that he change

(Continued on Page 3)

2025 RELEASE UNDER E.O. 14176

FD-350 (Rev. 7-16-63)

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# Ray's Brothers Describe Huie, Foreman Efforts

(Continued from Page 1)

lawyers and mentioned Percy Foreman.

"I didn't know if legally I could change attorneys at that date (Nov. 10), so I just told him to forget about it, I will go ahead to trial with Hanes and see what happens."

Ray said he never had any first-hand communication with Foreman before the Houston attorney showed up at the Shelby County jail a day or two before the trial date Nov. 12.

Asked what Foreman said about Hanes' ability to defend the case, Ray replied, "Well, he said I probably would be barbecued. That's his talk of the electric chair, I suppose . . .

"I think from there I asked how he would finance the case, and I believe he said he would wait until the trial was over and then make some arrangement with the book writer . . .

"And I asked what his fee would be, and he said $150,000, and that that would cover the appeals and everything."

Ray said Foreman then inquired about the white Mustang, identified by the prosecution as Ray's getaway car, and the 30.06 rifle identified as the murder weapon, being used as collateral for a retainer fee.

"And I told him the Mustang, that I had some collateral in the Mustang and I could probably claim it, but I didn't know about the rifle. There is a question of ownership on it," Ray said with a faint smile.

Ray said he signed over an interest in the car and rifle to Foreman the next day and wrote a letter edited by Foreman discharging Hanes as his defense attorney.

Throughout Ray's testimony before U. S. Dist. Judge Robert M. McRae, the convicted assassin spoke calmly but firmly.

He was dressed in the same dark, faintly pin-striped suit he had been wearing throughout the four-day-old hearing. But for the first time Ray wore a tie.

The proceedings are scheduled to resume Tuesday morning when Ray will continue his testimony. The court will be closed Monday for Veterans Day.

Ray's testimony followed that of his brothers, John and Jerry. John, a 41-year-old former tavern operator serving an 18-year sentence for bank robbery, and Jerry, a 39-year-old night watchman, both testified that Foreman tried to enlist them in efforts to convince Ray he should plead guilty. Both said they refused.

Jerry, who has served a prison term for armed robbery, said that Huie, too, applied pressure to him, asking him "to keep James off the witness stand."

Jerry Ray said Huie sent him a round-trip airplane ticket to Huntsville, Ala., in October, 1968. "I went down there to see him about Nov. 13, 1968. I remember he had a bottle of Jack Daniels whisky with him."

During their conversation, he said, "Huie told me his book would be public knowledge (before publication) if James had to testify . . . Then he wouldn't have no book.

"He requested that after I leave Huntsville that I go down and see James and tell him I didn't think he should get on the stand."

Jerry Ray said Huie told him the original three-way book contract with Huie, Hanes and Ray provided that

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Jerry Ray

"every time Arthur Hanes would get money James would, too. But he said Hanes had had the contracts changed so that he'd get the first $40,000 or $50,000 before James got any."

Jerry testified Huie then offered him $12,000 and restoration of the original contract if he or other members of the Ray family would persuade Ray not to testify.

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# Ray Said He Was Dupe In Plot, Hanes Testifies

By MICHAEL LOLLAR

A former defense attorney for James Earl Ray testified yesterday Ray told him he was the unknowing dupe in a conspiracy to murder Dr. Martin Luther King Jr.

Arthur J. Hanes, the blustery former mayor of Birmingham, said Ray told him he was standing on a sidewalk no more than 300 feet from King when another man fired the fatal shot.

"The story he told me didn't vary. I substantiated a great deal of it, personally and through other people. . . . It never varied. I pinned James Earl Ray down a hundred times."

Ray, who completed his third day of testimony early yesterday, strongly hinted at a conspiracy. The prisoner admitted no direct involvement in the slaying, but testified he was "never associated with more than one person" in connection with King's murder.

Hanes said he has "never run across a thing to change my mind" about a cospiracy to murder King.

The testimony by Hanes followed this question by Asst. State Atty. Gen. Henry Haile: "Did James Earl Ray tell you where he was when the shot was fired at 6 p.m. on April 4, 1968?"

Hanes paused, then looked inquiringly at U. S. Dist. Judge Robert M. McRae Jr. "Judge?"

Ray's current chief counsel, Bernard Fensterwald of Washington, rose, as if to object.

Before Fensterwald could speak, McRae shrugged, "I've already ruled that Mr. Ray has waived privilege on anything he told his former attorneys."

Hanes, the 58-year-old attorney who was fired by Ray in favor of Houston attorney Percy Foreman, then quickly ticked off the details supplied to him by Ray shortly after the slaying.

Two days before the shooting, Hanes said, "He told me that . . . the gun he had bought at Aero Marine Supply Co. at Birmingham, Ala., was taken from him at a motel in Mississippi where he had spent the night. And he never saw that gun again until it was thrown down, tied to his suitcase and those binoculars, in front of Canipe's Amusement Store," next door to the rooming house from which the fatal shot supposedly was fired.

It was unclear whether Hanes said the rifle was bought in Atlanta or Birmingham. Ray testified Tuesday he

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were thoroughly prepared for trial and optimistic of Ray's chances for an acquittal when they were forced to turn the case over to Foreman.

The defense, he said, was to be based on the "bushman theory" — the claim that someone else fired the shot. Several spectators at the scene of the slaying claimed the shot was fired from a clump of bushes near the rooming house. He said efforts to prove Ray was "a tool of a conspiracy" would have been an "alternative" defense.

The younger Hanes said he and his father hoped that Huie's efforts would tend to "humanize" Ray in the eyes of the public and lay a groundwork for possible conspiracy claims at Ray's trial, the trial which never came.

He defended investigative work by private investigator Renfro Hays, claiming Hays was the only person who knew and was able to talk to the otherwise uncooperative "habitues" of the SouthMain Street area.

Ray's present attorneys claim Hays' work was inaccurate and inadequate.

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# Issues Unfold In Ray's Bid To Withdraw 1969 Confession

By MICHAEL LOLLAR
and JAMES COLE

James Earl Ray was being treated "highly specially" by his Shelby County jailers when they opened three of his letters which they probably should have left untouched.

Outside, as eight months passed, his attorneys and an Alabama author were juggling literary contracts, the value of which hinged to a large degree on the outcome of Ray's case.

As the months passed, investigations in Ray's behalf were convincing his former attorneys that Ray "had no choice" but to plead guilty. His present attorneys, reviewing the early investigative efforts, say they were "inadequate," but did leave Ray with a choice. One choice. To plead innocent.

As Ray's evidentiary hearing unfolded last week, those issues, still only partially defined, emerged as the bases for Ray's bid to withdraw his 1969 confession to the murder of Dr. Martin Luther King Jr.

The issue most thoroughly explored, so far, involves the opening of Ray's letters. The jail's policy was to open and examine all incoming mail before delivering it to Ray. All outgoing mail — letters written by Ray — were to be examined by the jailers unless the letters were addressed to Ray's attorneys.

Testimony showed that after reading the incoming and outgoing letters Ray's jailers made photostatic copies of them and turned them over to the district attorney general's office — the office in charge of Ray's prosecution.

Out of dozens of letters introduced as exhibits during the first four days of the hearing, Ray's attorneys point to three which they claim were delivered to the prosecutor in violation of Ray's

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bought the gun in Atlanta, but the transcript of Hane's testimony quoted him as saying Ray bought the gun in Birmingham.

The attorney later explained that Ray met a "contact" at the motel, a man who called himself "Raoul." But his first account of Ray's explanation indicated Ray met more than one person at the motel.

"He (Ray) said that on Tuesday when they took the gun they gave him a note with the address of that rooming house on Main Street and told him to be there at 3 o'clock on Thursday afternoon, April 4. And on that Thursday he drove up. He couldn't find it and wandered around, had to park seven or eight blocks away from there and walked down and got there about 3:15 p.m. and checked in.

"Then his contact contacted him and asked him where he parked and Jim (Ray) told him. His contact said, 'Go get the car (Ray's white Mustang) and bring it and park it in front of the rooming house.' Jim said he did this.

"Then he said his contact took him up to the York Arms store to buy some binoculars. He brought those back and turned them over to the contact, and he says about 5:20 p.m. the contact told him, 'Jim, you go on downstairs and get a beer. There is Jim's Restaurant or something (Jim's Grill) down there,' and he said, 'I am going to wash up and shave and change shirts, and we'll go out a little later and get some dinner.'

"Jim said he had a beer or two there and then was standing out front on the sidewalk in front of the rooming house when the shot was fired."

Hanes said Ray then saw his suitcase, the 30.06 rifle and the binoculars thrown in a heap at the door of Canipe's.

"He knew somebody had been hurt. He knew he was in trouble and he fled."

The attorney's testimony was as a state witness in the seventh day of the evidentiary hearing which Ray hopes will win him the right to withdraw his guilty plea and stand trial for the murder. Hanes will be cross-examined when the hearing resumes at 9:30 this morning.

Fensterwald said after Hanes testimony yesterday: "I don't agree with all the facts in his statement, but I don't want to comment on it because it's related to a defense for Ray if he goes to trial."

Ray claims that when Foreman took the case from Hanes Foreman coerced him to plead guilty in order to preserve the value of literary contracts stemming from the case.

The contracts with author William Bradford Huie of Hartselle, Ala., originally were made with Hanes, then transferred to Foreman when he was hired Nov. 12, 1968. Ray claims Huie and Foreman conspired in efforts to persuade him to plead guilty.

Hanes and his son, Arthur Hanes Jr., who testified earlier yesterday, each testified they had worked closely with Huie, but denied the author influenced their planned defense of Ray.

"There's absolutely no truth in that. If he did he would have been rebuffed," said the senior Hanes. "He had absolutely no influence whatsoever on my preparation of the case for trial."

Ray's brother, Jerry Ray, has testified that Huie offered him $12,000 to persuade Ray not to take the witness stand if he went to trial. He said the author wanted to publish his book before Ray's story became "public knowledge."

Hanes testified Huie "might have raised the question of whether he (Ray) would take the stand . . . . I told him, 'Mr. Huie, that's a decision I'll have to make — that Mr. Ray will have to make — after the state completes its evidence.'"

The attorney said he and his son had discussed the possibility of negotiating a guilty plea for Ray, but Ray firmly refused. "James Earl Ray always wanted a trial."

Hanes Jr. testified he and his father

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constitutional rights. The letters were written to Savannah, Ga., attorney J. B. Stoner, to Criminal Court Judge W. Preston Battle and to former Public Defender Hugh Stanton Sr.

**Asst. State Atty. Gen. Henry Haile** has shown little concern over the letters to Stoner and Battle. Neither was involved in Ray's defense, and neither was an "attorney of record" for Ray. Stanton, however, was an attorney of record for Ray and had been for almost a month before Ray's letter to him was opened on Jan. 1, 1968.

None of the letters divulged defense strategy to the prosecutor's office, but the fact that the Stanton letter, at least, was delivered to Ray's prosecutor in the first place may require careful explanation by the state as the case proceeds.

In opening statements, Ray's chief counsel, Bernard Fensterwald, said, "In a very true sense, this makes the Ellsberg case look like a model of judicial rectitude."

Ray's attorneys claim the same constitutional "violations" associated with the letters apply to handwritten notes taken from Ray's cell. There were two such notes — one rescued from a toilet and one from a garbage can.

Like the letters, they disclosed no defense strategy. "But if they had the prosecutor's office would have had them just the same," said Fensterwald.

As for Ray's personal treatment in the jail, testimony by Ray's jail physician said it "improved his health," creating no signs of nervousness or depression. Ray's attorneys did not question Ray Friday about his physical or mental condition during the eight months of solitary confinement.

**But, earlier in the hearing, the chief** security officer assigned to Ray told Ray's Memphis attorney, Robert I. Livingston, that the prisoner's treatment had no precedent in Shelby County history, that Ray was treated "highly specially."

Ray was never alone in the cell. Two deputies were housed with him throughout his stay. Two television cameras were trained on the cell at all times, and a microphone was connected to one of the cameras.

Fensterwald had claimed early in the trial that secret microphones were hidden in the toilet and in an air conditioning duct, but was unable to prove their existence.

Ray's attorneys are focusing their attention on publishing contracts that came into play in their client's defense soon after his arrest in London on June 8, 1968.

**Ray testified that he sent a letter to** attorney Arthur Hanes of Birmingham when he was being held in London for extradition proceedings. He said he had heard of Hanes before and mailed the letter in care of the Birmingham Bar Association.

Ray said Hanes showed up in London in the early part of July with two documents in his hands—one giving Hanes power of attorney for Ray and a contract recognizing the attorney's rights to 40 per cent of the proceeds for a book. It would tell Ray's exclusive story of the King assassination.

Ray said when he signed the two documents he had never heard of Alabama author William Bradford Huie. He said he first heard the name after he was returned to the United States.

After an English court ruled that Ray should be extradited, Ray said he wanted to appeal the decision. He added that Hanes talked him out of it.

What Ray claimed he was unaware of at that stage was a contract in the form of a letter dated July 8 from Huie to Hanes.

Under terms of the letter, which was introduced as evidence, Huie would agree to pay a total of $35,000 to Hanes and Ray in advance of the book's publication.

**But there was an important condition.** Ray had to be returned to the United States or all bets were off.

Ray's attorneys are expected to argue the obvious conclusion — Hanes gave Ray shoddy legal advice in urging him to drop his appeal of the extradition ruling because of that condition in the contract with Huie.

Ray's attorneys also paid close attention to another publishing contract. This one was dated Nov. 20, 1968. The parties were Huie and Dell Publishing Co., Inc.

**Significantly, the proposed title of** Huie's book, mentioned in the Dell contract was "They Slew the Dreamer." The plural pronoun was dropped when the Huie book was published in 1970. It's called: "He Slew the Dreamer."

Testimony about the investigative work by Ray's former attorneys was contradictory at best, and will be explored further when private investigator Renfro Hays testifies as a state witness later in the hearing.

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Dist. Atty. Gen. Hugh Stanton Jr., a former assistant public defender who assisted his father and Foreman in Ray's defense, testified Foreman supplied no findings from any investigation he might have conducted. "But I think we probably discussed what he had done."

A letter introduced as an exhibit contained Foreman's own explanation: "My investigation and interviews with witnesses are in a cryptic form of shorthand, being a combination of Gregg, Pitman, Percy Foreman and Alabama-Coushatta Indian hieroglyphics. In other words, no living human being except myself can decipher whatever has been reduced to writing by me as a result of interviews in the James Earl Ray case . . ."

In a deposition, Foreman claimed that he hired Memphis State University law students to interview witnesses, but Stanton said he never saw the results of those interviews.

One document produced by Stanton did indicate that Foreman once dictated a memo advising members of the public defender's staff to interview potential state witnesses. When Ray pleaded guilty only 31 of about 360 potential state witnesses had been interviewed.

Stanton testified his staff made no independent investigation of ballistics exidence compiled by the FBI and presented during Ray's guilty plea hearing. A New York criminologist testified investigation of the ballistics evidence could have disproved two state theories about the shooting — that the bullet removed from King was fired from Ray's gun and that the fatal shot was fired from the window of the rooming house where Ray supposedly had rented a room.

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# SCLC Urges New Ray Trial

ATLANTA, Oct. 26.—(UPI)—The Southern Christian Leadership Conference (SCLC), founded by Dr. Martin Luther King Jr., said Saturday it was convinced that James Earl Ray was just the "fall guy" for wealthy interests in King's slaying, and urged that Ray be given a new trial.

The SCLC referred to Ray as a "minnow" in the case and said the new trial was needed so authorities can get to the "big fish."

Ray pleaded guilty to the murder of the civil rights leader in exchange for a 99-year prison sentence, but has since changed his story and now contends he was pressured by his attorney, Percy Foreman, into entering the guilty plea. A federal court in Memphis currently is holding an evidentiary hearing into Ray's charges.

In a two-page statement issued by SCLC headquarters, the civil rights group said it is convinced that King was killed by a conspiracy, and that Ray is just a "fall guy" for wealthy leaders of that conspiracy.

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# Hearing Will End Today In Ray's New Trial Bid

By MICHAEL LOLLAR

The evidentiary hearing in which James Earl Ray denied any "direct" role in the slaying of Dr. Martin Luther King Jr. will end today, the ninth day of Ray's attempt to retract his confession.

The state ended its presentation of witnesses late yesterday, then read the deposition of 63-year-old author William Bradford Huie whose book, "He Slew the Dreamer," has figured prominently in the hearing.

In his testimony, the Hartselle, Ala., author said he was disappointed when Ray pleaded guilty on March 10, 1969, because the confession "totally ruined" the sales potential of the book.

Huie said the confession implied that Ray, alone, murdered King, after which the public no longer was interested in reading about the case.

His testimony was in direct contrast to Ray's. The 46-year-old prisoner, serving a 99-year sentence for the slaying, claims Huie wanted him either to confess or to refuse to testify in his own defense.

Ray testified Huie was afraid his testimony would become "public knowledge" before the book was published.

When the hearing resumes at 9:30 this morning, the state will read a lengthy deposition by Houston attorney Percy Foreman, who was assigned 60 per cent of the expected royalties from "He Slew the Dreamer" when he agreed to represent Ray. The prisoner claims Foreman then "coerced" him to plead guilty in order to preserve the economic value of the book.

U. S. Dist. Judge Robert M. McRae Jr. agreed yesterday that attorneys for both sides may submit final arguments in writing after the hearing is concluded. He is expected to schedule a deadline for the arguments after the reading of Foreman's deposition today.

Earlier yesterday, Ray's first attorney, Arthur Hanes of Birmingham, testified he felt he could have prevented Ray's extradition after his arrest in London in July, 1968.

"If they (the English courts) had acted

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fairly and impartially, they would not have extradited James Earl Ray, because in my opinion it was a political killing and, therefore, not an exraditable offense."

But, Hanes said he didn't advise Ray to appeal the extradition ruling. "Mr. Ray told me he wanted to come home. He was tired of being over there and wanted to come back to America."

Hanes, too, had contracted with Huie, and was to receive 40 per cent of the book royalties until he was fired and his royalty rights assigned to Foreman on Nov. 12, 1968.

The attorney was testifying under examination by Ray's current chief counsel, Bernard Fensterwald, who claims that Hanes' defense of Ray was tainted by his interest in the book royalties.

**A contract introduced as** an exhibit showed that when Hanes took the Ray case Huie promised the attorney $35,000. The contract showed Hanes was to receive an initial payment of $10,000. Then, "On the first day after Ray has been lodged in a jail in the United States I will pay you $5,000," Huie provided.

Fensterwald contends Hanes made no effort to prevent Ray's extradition, because of the contractual stipulation.

Hanes claimed the lure of money made no difference. He said Ray had asked for his help by writing to him in care of the local bar association in Birmingham. "And I believe that letter . . . explained that Mr. Ray wanted to come home and explain that 'silly matter' in Memphis.

Hanes testified Wednesday on direct examination by Asst. State Atty. Gen. Henry Haile that he and his son, Arthur Hanes Jr., were fully prepared for trial when Ray hired them to hire Foreman.

The attorney said Ray told him he was unknowingly involved in a conspiracy to murder King, and testified Ray never indicated a willingness to plead guilty. When he learned Ray had pleaded guilty, Hanes said he was "shocked and amazed, particularly in view of the length of the sentence (99 years)." Before Foreman entered the case, Hanes said, "James Earl Ray always wanted a trial."

Fensterwald asked: "Do you have any idea why Mr. Foreman entered the case?"

Hanes replied: "Mr. Foreman — you can imagine all kinds of things. I don't know. I know there was a lot of heat on Memphis at the time.

"I think the power structure was shaken up and felt like they needed a conviction. I think they felt like they (the state) had a weak case and something had to be done. I thought maybe Mr. Ramsey Clark, the fine, honorable (former) attorney general of the United States, might have had a hand in it."

The statement implied at least partial belief in Ray's claims, but Hanes did not elaborate, and the answer was not pursued by the attorneys.

**But the attorney said he** and his son tried to help Foreman in his preparation

Arthur J. Hanes

of Ray's case. "We offered him everything we had in our office, tried to explain our theory of the case to him." He said the coaching involved a long discussion over dinner in which "he (Foreman) drank about $14 worth of Scotch."

Soon afterward, Hanes said, "Mr. Foreman proceeded to tell the judge and the press that we wouldn't cooperate with him."

In his deposition, to be read today, Foreman repeatedly denied Ray's conflict-of-interest claims. The 72-year-old attorney said, "I got into the case because I thought I could save a man's life. I thought it was my duty to do so . . . If I didn't get into the case, I felt James Earl Ray would get the death penalty."

Denying any greed in connection with the book, Foreman said he is "worth at least $4½ million with liabilities of approximately $140,000." He said he owns about 80 vacant houses which he uses for "storage" in the Houston area.

Unlike Hanes, Foreman said he believes Ray, alone, killed King. "He was a racist. He is a racist, and has been one all his life. He could not think of anybody else not being a racist if they were white."

**The state presented a pub**lishing executive early yesterday who agreed Huie's book was ruined by Ray's guilty plea. Victor Temkin, the general counsel, vice president and secretary of Bantam Books in New York, testified the best-selling books about sensational murder cases are those involving "sensational trials."

Temkin said books on the well-publicized Candace Mossler and Sam Sheppard murder cases were financially successful, while two Bantam books on the Ray case failed. Temkin said "The Strange Case of James Earl Ray" by Clay Blair was a "disaster," and "An American Death" by Gerold Frank (a reprint by Bantam) also lost money.

Under cross-examination by Fensterswald, Temkin, however, said that if Ray's "whole story" came out in a trial Huie's book would have lost its "exclusiveness."

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# Ray Hearing Ends; Ruling To Be Rushed

By MICHAEL LOLLAR

James Earl Ray's evidentiary hearing ended in federal court yesterday, with a ruling on Ray's request for a new trial promised "as soon as possible" after mid-December.

U.S. Dist. Judge Robert M. McRae Jr. told attorneys for Ray and the state to submit their final arguments in writing by Dec. 2, and gave them until Dec. 13 to reply to each other's arguments.

The judge said he may be working "through the Christmas holidays," but added, "I'll hurry. If I get run over or something, somebody else is going to have to hear this whole thing all over again."

Afterward, Ray's attorneys were saying things like, "When the trial starts . . ." and, "At the trial . . ."

The attorneys are confident the evidentiary hearing will win Ray the trial he has sought since he pleaded guilty in 1969 to the slaying of Dr. Martin Luther King Jr.

"When we started out four or five years ago, the odds indicated this might be no more than a routine miscarriage of justice. But, now, based on the evidence presented, I think there's a very good chance, a substantial chance or better of a new trial," said Ray's chief counsel, Bernard Fensterwald of Washington.

As the evidentiary hearing ended at 2:40 p.m. yesterday, attorneys for the state were less than anxious to comment on "how things look."

Asst. State Atty. Gen. Henry Haile, the state's chief counsel, had professed "confidence" after the first week of testimony.

Yesterday he said, "I think there was a full presentation of evidence on both sides. I thought our adversaries were unusually well prepared."

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His co-counsel, John R. 'Dick' Lodge, was "confident" of a state victory, and William 'Joe' Haynes, had "no comment."

Fensterwald's co-counsel, James H. Lesar of Washington, and Ray's Memphis attorney, Robert I. Livingston, predicted a trial. Livingston already is planning defense strategy for a Criminal Court trial.

Ray, slumped in his chair behind his attorneys, appeared tired. In three days of testimony he attempted to show that his former attorneys lost sight of his defense in their pursuit of royalties from a book on the slaying written by William Bradford Huie.

Ray left Memphis under escort of federal marshals about 7 last night for the state penitentiary at Nashville to await the outcome of his hearing. The 46-year-old prisoner has served 5 years and 7 months of the 99-year sentence imposed after the confession he claims was pried from him by a greedy millionaire Houston attorney.

The attorney's own testimony, read from a deposition, was the final note to Ray's evidentiary hearing. Percy Foreman, the 72-year-old Houston lawyer, denied any greed, claiming he's "worth at least $4½ million," and didn't need or want to profit at Ray's expense.

When Ray fired his first attorney, Arthur J. Hanes of Birmingham, he hired Foreman, assigning him 60 per cent of the expected royalties from Huie's book, "He Slew the Dreamer." Hanes would have received 40 per cent of any royalties.

Ray's attorneys tried to show in the evidentiary hearing that Hanes, and then Foreman, were lax in their efforts, and that Huie had convinced them his book would not sell if Ray stood trial and his testimony became "public knowledge" before the book was published.

Hanes testified in person, claiming he was "fully prepared" for trial and optimistic of Ray's chances of acquittal when Ray fired him to hire Foreman.

Neither Huie nor Foreman would agree to testify in person at the hearing — a factor Ray's attorneys bitterly opposed. State attorneys conceded the unavailability of the writer and the lawyer for careful drilling under courtroom pressure "hurt Ray."

In his deposition Huie claimed he was disappointed when Ray pleaded guilty. In direct contrast to Ray, he claimed the guilty plea "totally ruined" his book, because it implied that Ray, alone, murdered King, after which the public no longer was interested in reading about the case.

Foreman, in his deposition, said his interviews with Ray convinced him he was guilty and that the state had "overwhelming" evidence to prove it.

Foreman said he "spent hours" explaining to Ray that a jury might sentence him to death to "make an example of him," while a guilty plea negotiated with state prosecutors likely would result in a life sentence or a 99-year sentence.

Ray's own testimony strongly hinted he was involved in a conspiracy, indirectly or unknowingly, through "another party." Ray said, "I was never involved with more than one person."

Foreman, in his deposition, said he was convinced Ray acted alone, and Huie, in his deposition, agreed. Hanes testified Ray told him he was an unknowing dupe in a conspiracy, and was standing on a sidewalk no more than 300 feet from King when another man, "Raoul," fired the fatal shot.

But, the conspiracy angle, fact or fiction, is unrelated to the constitutional issues which will decide whether Ray is entitled to withdraw his March 10, 1969, confession.

When the U.S. Sixth Circuit Court of Appeals in Cincinnati granted Ray's request for the evidentiary hearing on Jan. 29, the court said the "most pertinent" issues involved Ray's conflict-of-interest claims against Huie, Hanes and Foreman.

The court said, "The entire record reeks with ethical, moral and professional irregularities, demanding a full-scale judicial inquiry. Without such a hearing, the record leaves no alternative to the conclusion that Ray's attorneys were more interested in capitalizing on a notorious case than in representing the best interests of their client."

The Sixth Circuit judges told McRae his review should decide in light of the royalty contracts whether Ray's guilty plea was entered "intelligently and voluntarily." When Ray entered the plea in 1969, he told Criminal Court Judge Preston Battle he had not been threatened or coerced.

But, the appellate judges said that "in light of the total circumstances preceding his sentencing, Ray could easily have believed that he had no other choice." The court said Foreman might have convinced Ray he would die in the electric chair if he stood trial.

When the evidentiary hearing opened here Oct. 27, Ray's attorneys inserted another issue — the opening of Ray's mail by his jailers at the Shelby County Jail. The issue arose during prehearing discovery when Ray's attorneys were allowed to examine the prosecutor's files on the Ray case.

Fensterwald said he found copies of two letters from Ray to attorneys and one letter from Ray to Battle in the prosecutor's files. Testimony showed his jailers were instructed to read Ray's incoming and outgoing mail, make photostatic copies of it and turn it over to the prosecutor, "unless" it was addressed to his attorneys.

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FD-350 (Rev. 7-16-63)

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*Both Sides File Briefs*

# Ray Attorneys Want Charges Dropped

By KAY PITTMAN BLACK
Press-Scimitar Staff Writer

Attorneys for James Earl Ray told U.S. Dist. Judge Robert M. McRae Jr. that the confessed killer of Dr. Martin Luther King not only should have his 1969 conviction overturned by the federal court but said that "murder charges against him must be entirely dismissed."

In a 39-page brief filed yesterday, the attorneys, Bernard Fensterwald and James Lesar of Washington, D.C., and Robert I. Livingston of Memphis, said conditions at Shelby County jail — where Ray was confined about eight months before pleading guilty to the King killing — violated Ray's rights to "fairness and due process."

**Meanwhile, in a 71-page** brief filed by Asst. U.S. Atty. Henry Haile yesterday, the state admitted that there might have been a conspiracy to murder King in Memphis on April 4, 1968. However, Haile argued that this did not warrant granting Ray a new trial.

Ray pleaded guilty to the April 4, 1968, slaying of the civil rights leader on March 10, 1969, before the late Shelby County Criminal Court Judge Preston Battle. Ray is now serving a 99-year sentence at the Nashville State Penitentiary.

An eight-day evidentiary hearing before Judge McRae ended Nov. 1. The hearing was held to determine whether Ray should be allowed to withdraw his guilty plea and stand trial for the murder.

(Indicate page, name of newspaper, city and state.)

PAGE 5

MEMPHIS PRESS SCIMITAR

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Yesterday was the deadline for filing briefs, and the attorneys have until Dec. 13 to file additional legal arguments in response. Judge McRae said he would work on the Ray opinion over the Christmas holidays, with a ruling expected sometime in January.

Ray's attorneys said that actions by the state while Ray was in jail, including use of television monitors to watch him and microphones to pick up his conversations, plus opening his mail and turning it over to the prosecution, should warrant dismissal of the charges.

During the evidentiary hearing, Ray's attorneys attempted to show that Ray's former lawyers, Arthur Hanes Sr. of Birmingham, Ala., and Percy Foreman of Houston, Tex., were less concerned with Ray's interests than in royalties from a book on the slaying written by William Bradford Huie.

Ray also claimed that Foreman pressured him into the guilty plea in order to avoid a public trial that would damage the "exclusiveness" of the Ray story and thus hurt the sales of Huie's book, "He Slew the Dreamer."

Hanes, Foreman and Huie disputed the allegations. Foreman said he negotiated a waiver of the death penalty and a 99-year-sentence early in 1969 in exchange for the guilty plea because he believed Ray would be sentenced to die in the electric chair if he stood trial.

In their briefs, Ray's attorneys point out that this was another example of Foreman's coercion of Ray because the attorney knew that no one had been put to death in the electric chair in Tennessee since 1959.

During the hearing Ray took the witness stand and denied shooting King. He hinted that "other parties" might have been involved.

Referring to that, Haile said, "The murder of Dr. Martin Luther King Jr. was a sensational event. The evidence clearly shows that Ray, Hanes, Huie and Ray's brothers (John and Jerry) all sought to exploit the publicity for their own private ends.

"Foreman has testified that Ray killed Dr. King for recognition, and given the history of Ray's career in the state and federal courts since April 1968, that is easy to believe."

Haile then added, "We will never know what went through James Earl Ray's mind on March 10, 1969, when he stood in Judge Battle's courtroom and injected dark hints of conspiracy into the record.

"It may be that there was a conspiracy to murder Dr. King. There is no evidence of it and that is not the issue here. And it is more likely that Ray cynically used the March 10 (guilty plea) hearing to promote public interest in the case. He clearly does not want to be forgotten."

Ray's attorneys said the two lawyers' association with Huie resulted in Ray "suffering massive prejudice." They claim that "Huie's assumption of Ray's guilt was built into his contracts with Hanes, Foreman and his publishers. If Ray did not shoot Dr. King and could not tell Huie who did, Huie's manuscript would be worthless. Therefore, Huie had to presume Ray's guilt. Of course, this assumption conflicted with Ray's right to be presumed innocent until proven guilty."

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# Court Told Proof Clears Ray

By MICHAEL LOLLAR

James Earl Ray's attorneys yesterday argued that the proof presented in his evidentiary hearing demands that his 1969 murder confession be overturned and the murder charge against him be "entirely dismissed."

But attorneys for the state argued that Ray's confession was a "reasoned and reasonable" decision by an intelligent man who preferred a 99-year prison sentence to death.

The arguments were submitted in writing to U.S. Dist. Judge Robert M. McRae Jr., who will decide whether Ray is entitled to withdraw the guilty plea and stand trial for the slaying of Dr. Martin Luther King Jr.

Most of the arguments in Ray's behalf revolved around conflict-of-interest claims against his former attorneys, Arthur Hanes of Birmingham and Percy Foreman of Houston. Both were parties to literary contracts with Alabama author William Bradford Huie whose book, "He Slew the Dreamer," played a major role in Ray's evidentiary hearing.

(Indicate page, name of newspaper, city and state.)

— PAGE 3

— COMMERCIAL APPEAL

— MEMPHIS, TENN.

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**At the hearing, Ray's current** attorneys tried to show that Hanes and then Foreman were negligent in their defense efforts because Huie had convinced them his book would not sell if Ray stood trial and his testimony became public knowledge before the book was published.

In their arguments yesterday, Ray's Washington attorneys, James H. Lesar and Bernard Fensterwald, and Memphis attorney Robert I. Livingston relied heavily on testimony by Huie. The author said in a deposition that he was convinced "from the beginning" that "Ray and Ray alone killed King."

Ray's attorneys said that Huie's assumption was "built into his contracts with Hanes, Foreman and his publishers . . . Of course this assumption conflicted with Ray's right to be presumed innocent until proven guilty. Hanes and Foreman were being paid by Huie allegedly to defend that right, but the very terms of their contracts with Huie required them to traduce (violate) it."

Asst. State Attys. Gen. Henry Haile and William 'Joe' Haynes argued the lure of possible royalties did not affect the efforts of either Hanes or Foreman. "It is impossible to second guess the action of the attorneys in this case from a distance of nearly six years," they said.

**But, "It seems clear that** without the literary contracts Ray would not have been able to afford attorneys of the caliber of Hanes and Foreman. It seems equally clear that Ray knew this and was willing, if not eager, to take the risk. We do not mean to underestimate the importance of moral and ethical analyses of situations like this, but we cannot help but observe that the evidence does not support a finding of ethical, moral or professional irregularities."

The state attorneys noted that the American Bar Association adopted a code of professional responsibility in 1969, frowning on fee arrangements such as those in the Ray case. But they said the code was not adopted until five months after Ray pleaded guilty.

The state said Ray is "an experienced articulate, intelligent man with an IQ of 114, thoroughly familiar with the ways of courts and lawyers." Therefore, the state claimed, he could not easily have been influenced, and, in any case, "There is no evidence that either man (Hanes or Foreman) gave James Earl Ray anything less than his best effort.

**"James Earl Ray was an** active, willing, intelligent participant in all the events from his arrest in London until his guilty plea. And in the end he made the reasoned and reasonable decision to accept a 99-year sentence rather than risk the death penalty."

Ray's attorneys also claimed the prisoner's rights were violated by his Shelby County jailers, who opened Ray's incoming and outgoing mail and turned it over to the prosecutor's office "unless" it was addressed to his attorneys.

They said the opening of the mail and Ray's constant surveillance by television cameras and a microphone in his cell violated his rights to a confidential attorney-client relationship in a "gross, pervasive, methodical and sinister" manner.

The state attorneys argued the surveillance did not interfere with Ray's rights and that inspection of incoming and outgoing mail "is a legitimate and proper function of those entrusted with the security of incarcerated persons . . . The law, then and now, is that mail from unconvicted prisoners is subject to inspection and copying and may be used as evidence against the prisoner if it contains admissions against (their) interest . . ."

McRae has given attorneys for both sides until Dec. 13 to reply to the arguments submitted yesterday. The judge said he then will decide the case as quickly as possible.

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# Ray's Attorneys Say He Was Framed

Attorneys for the convicted murderer of Dr. Martin Luther King Jr. filed briefs in federal court today claiming that "evidence now points to the fact that James Earl Ray was framed for a crime he didn't commit."

The statement was contained in a response filed by James Lesar and Bernard Fensterwald of Washington, D.C., to the state's briefs sent earlier this month to U.S. Dist. Judge Robert M. McRae Jr.

Ray had an eight-day evidentiary hearing before Judge McRae, winding up Nov. 1, on his move to withdraw his guilty plea and get a new trial on charges from the April 4, 1968, slaying of the civil rights leader.

**Ray's attorneys told Judge** McRae today: "The evidence increasingly indicates that law enforcement officials, both state and federal, have covered up the evidence of this frameup . . . There was a conspiracy to kill Dr. King . . . but evidence eliminates any reasonable belief that James Earl Ray was part of the conspiracy.

Lesar and Fensterwald said: ''A Watergate type coverup of the assassination of Dr. King continues until this day. That and that alone explains the frenzied efforts of the state to obstruct an examination of the physical evidence by petitioner's investigator and counsel."

**In their briefs, state attorneys** contended that Ray's confession on March 10, 1969, was a "reasoned and reasonable" decision by a man who preferred 99 years in prison to a death sentence that could have resulted from a trial.

State attorneys rejected Ray's claim that he was coereced into pleading guilty and said Ray had failed to prove his allegation that his former attorneys were in conflict of interest because they had signed contracts for literary royalties on his case.

McRae is expected to rule sometime in January on the controversial case.

(Indicate page, name of newspaper, city and state.)

PAGE 2

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# Defense Brief Says Ray 'Framed' In King Killing

An attorney for James Earl Ray claimed in a written argument in federal court yesterday that Ray was "framed" as the murderer of Dr. Martin Luther King Jr.

James H. Lesar of Washington said proof presented at Ray's evidentiary hearing here removes even the "shadow of a doubt" that Ray participated in the slaying.

"In fact, all the evidence now points to the fact that James Earl Ray was framed of a crime he didn't commit. The evidence increasingly indicates that law enforcement officials, both state and federal, have covered up the evidence of this frameup."

Lesar based his contention on testimony by a firearms expert who testified in Ray's behalf, claiming the bullet removed from King could have been traced to a specific rifle. An FBI firearms expert who examined the bullet shortly after the slaying had concluded it could not be traced to a particular gun.

Testimony at the hearing before U.S. Dist. Judge Robert M. McRae Jr. showed that police recovered the rifle on the sidewalk next to a boarding house on South Main from which the fatal shot supposedly was fired. Police concluded the rifle was the slaying weapon and accidentally was dropped on the sidewalk as Ray fled the scene. Lesar and his co-counsel claimed the rifle was left on the sidewalk by another person — a man named "Raoul" — who deliberately dropped the rifle in a calculated, successful attempt to implicate Ray.

Taken together, Lesar said in his argument yesterday, the evidence indicates "that the bullet removed from Dr. King is traceable to a rifle other than the one left on South Main Street."

Without further elaboration, Lesar argued: "This means that there was a conspiracy to kill Dr. King. It also eliminates any reasonable belief that James Earl Ray was part of that conspiracy."

Lesar's argument was in response to the state's final written arguments filed Dec. 2.

McRae has taken the arguments under advisement, promising a ruling "as soon as possible" on whether Ray is entitled to withdraw his guilty plea and stand trial for the King slaying.

(Indicate page, name of newspaper, city and state.)

— PAGE 25

— COMMERCIAL APPEAL

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# Ray Decision Third Complete

U.S. Dist. Judge Robert M. McRae Jr. has completed a third of his written ruling that, when issued, will decide whether James Earl Ray should get a new trial for the April 4, 1968, slaying of Dr. Martin Luther Kng Jr.

Judge McRae said yesterday he expects to finish writing his opinion sometime in mid-February.

Ray pleaded guilty on March 10, 1969, to the slaying and was sentenced to 99 years in the Nashville State Penitentiary.

However, he is now seeking to have Judge McRae allow him to withdraw his guilty plea and stand trial. Ray claimed he was coerced by his attorneys into pleading guilty.

(Indicate page, name of newspaper, city and state.)

PAGE 16

MEMPHIS PRESS SCIMITAR

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# Appeal Is Denied On Ray Evidence

The U.S. Supreme Court yesterday refused to consider an appeal by the state of Tennessee challenging the broad scope of pre-hearing discovery rulings for James Earl Ray's attorneys.

The high court's refusal to consider the appeal in effect affirmed an earlier ruling by the U.S. Sixth Circuit Court of Appeals at Cincinnati, which said the discovery rulings by U.S. Dist. Judge Robert M. McRae Jr. were "well within the exercise of sound discretion."

McRae's rulings had given Ray's attorneys the right to inspect evidence which the state gathered in 1968 and 1969 in preparation for Ray's trial for the slaying of Dr. Martin Luther King Jr. The material already has been introduced as evidence during Ray's evidentiary hearing before McRae last October and November.

The Memphis judge now is writing his decision on whether Ray is entitled to withdraw his guilty plea and stand trial for the slaying.

Asst. state Atty. Gen. Henry Haile said yesterday, "I'm not surprised by the Supreme Court's decision. I didn't think there was much chance of them upholding the appeal since the hearing is already over."

(Indicate page, name of newspaper, city and state.)

— PAGE 1

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# Ray's Lawyer Is Hopeful

A defense attorney for James Earl Ray said today he does not believe he will have to appeal Federal Judge Robert McRae's ruling tomorrow on whether Ray is entitled to a new trial, but he is prepared to if necessary.

"If we don't get a new trial, we will appeal immediately," said Bernard Fensterwald, Ray's Washington lawyer.

McRae announced yesterday he will issue a written ruling on the Ray case at 2 p.m. tomorrow. In that ruling, he said he will say whether the state is required to give Ray, who pleaded guilty to the murder of Dr. Martin Luther King, a new trial. .

Fensterwald said he believes that McRae will rule that Ray is entitled to a new trial.

"I'm a born optimist," he said. "We're hopeful he'll come down on our side." Fensterwald maintains that Ray was coerced into pleading guilty to the murder charge because former lawyers, who held royalties for literary works on the King case, were more interested in making money than defending Ray.

Ray, 46, is serving a 99-year sentence in Tennessee State Penitentary in the slaying of the civil rights leader.

An appeal in the case is almost certain no matter which way McRae rules. Assistant State Attorney General Henry Haile of Nashville has said he will appeal if McRae decides that Ray is entitled to a new trial.

(Indicate page, name of newspaper, city and state.)

PAGE 12

MEMPHIS PRESS SCIMITAR

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# Judge Sets Time On Ray Decision

U. S. Dist. Judge Robert M. McRae Jr. said yesterday he will file a written opinion at 2 p.m. tomorrow, deciding whether James Earl Ray is entitled to a new trial in the slaying of Dr. Martin Luther King Jr.

The announcement rekindled the "optimism" of Ray's attorneys, who said after an evidentiary hearing last October and November they were confident Ray will be allowed to recant his 1969 confession.

"I'm a born optimist . . . and we're hopeful he'll come down on our side," said Bernard Fensterwald, one of Ray's Washington attorneys. He said that Ray, serving a 99-year sentence for the slaying, also "thinks he'll get a trial."

Ray claimed he was coerced into pleading guilty by his former attorneys, Arthur Hanes of Birmingham and Percy Foreman of Houston, due to their interests in royalty rights to a book on the slaying by Alabama author William Bradford Huie.

Asst. State Atty. Gen. Henry Haile contended that despite any literary interests on the attorneys' parts Ray made up his own mind to plead guilty. The state attorney said the decision was a "reasoned and reasonable" decision by an intelligent man who preferred a 99-year prison sentence to death.

Ray's testimony at the evidentiary hearing strongly hinted that he was involved in a conspiracy, either indirectly or unknowingly, through "another party." Ray said, "I was never involved with more than one person."

(Indicate page, name of newspaper, city and state.)

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# Ruling on Ray Set Thursday

U.S. Dist. Judge Robert M. McRae Jr. said today he will issue his written ruling on the James Earl Ray case in open court at 2 p.m. Thursday.

In the ruling Judge McRae will reveal whether the state is required to give Ray, who earlier pleaded guilty to the slaying of Dr. Martin Luther King, a new trial.

Ray, 46, is now serving a 99-year sentence in Tennessee State Penitentiary for the April 4, 1968, slaying of the civil rights leader. He was sentenced by the late Criminal Court Judge Preston Battle on March 10, 1969, following the guilty plea.

At an evidentiary hearing last November before Judge McRae, Ray maintained he was coerced by his attorneys into pleading guilty, and, therefore, should be granted a new trial.

If Judge McRae rules that Ray is entitled to a new trial, Asst. State Atty. Gen. Henry Haile of Nashville has said the state will appeal. If the judge rules against Ray, his attorneys, Bernard Fensterwald and James Lesar of Washington, D.C., and Robert I. Livingston of Memphis, have said they will appeal.

(Indicate page, name of newspaper, city and state.)

PAGE 10

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# Prosecution May Face Conflict In Ray Case

State officials may be forced to appoint a special prosecutor to try James Earl Ray if U.S. Dist. Judge Robert M. McRae Jr. overturns Ray's 1969 guilty plea.

McRae is scheduled to issue his opinion at 2 p.m. today on the constitutionality of Ray's guilty plea in the assassination of Dr. Martin Luther King Jr.

If McRae nullifies the plea based on testimony he heard at an evidentiary hearing last fall, the case would be remanded for trial in Criminal Court.

However, Atty. Gen. Hugh W. Stanton Jr. would face an apparent conflict of interest in prosecuting the case.

**The attorney general's father**, the late Public Defender Hugh Stanton, was appointed by Criminal Court Judge Preston Battle as reserve counsel in case Ray became unable to retain a private attorney.

The younger Stanton assisted his father in conducting a preliminary investigation of the King assassination and interviewed several witnesses.

Battle, who died shortly after Ray's plea, also appointed the Stantons to assist Ray's private attorneys, Arthur Hanes of Birmingham and later Percy Foreman of Houston, Texas.

Stanton was in Nashville yesterday and was unavailable for comment about whether he would recuse himself from prosecuting Ray if the guilty plea is overturned.

**However, Exec. Asst.** Atty. Gen. Terry Lafferty said a ruling in favor of a new trial for Ray would cause difficulties for every prosecutor in Stanton's office.

"All assistants serve under the direction of the attorney general. I don't see how any prosecutor in the office could handle the case and claim he is acting independently.

Ray claimed at the evidentiary hearing that he was forced to plead guilty by Hanes and Foreman because of their interests in royalty rights to a book about the slaying by Alabama author William Bradford Huie.

Dwight Fugate, city school specialist in charge of special education busing.

He said he had had two conferences with Mrs. Wiseman about the tickets — most of which were for parking violations — and he is investigating further.

(Indicate page, name of newspaper, city and state.)

— PAGE 22

— COMMERCIAL APPEAL

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# Decision on Ray Due in 2 Weeks

U.S. Dist. Judge Robert M. McRae said today he has already made his decision on a bid by James Earl Ray, convicted slayer of Dr. Martin Luther King Jr., for a new trial on the murder charge.

However, the judge said he is not yet ready to reveal his ruling. He indicated the public announcement of his decision was probably two weeks away.

The first draft of the opinion has been typed, he said, adding that he was "polishing it up." A second and perhaps a third draft will be typed before Judge McRae will release it.

He said he would give at least three days' notice of the date and time of the release of the opinion.

(Indicate page, name of newspaper, city and state.)

PAGE 6

MEMPHIS PRESS SCIMITAR

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# Judge Polishing Ray Case Ruling

U.S. Dist. Judge Robert M. McRae Jr. said he has completed the rough draft of his ruling in the James Earl Ray case, but the prisoner's fate will remain a secret for at least another week.

His opinion, based on an eight-day evidentiary hearing in October and November, will decide whether Ray is entitled to recant his guilty plea and stand trial for the 1968 murder of Dr. Martin Luther King Jr.

The judge's decision, about 70 handwritten legal pages long, will be reviewed and "possibly revised," then typed by his secretary before its release in open court. McRae said he will annnounce three days ahead when he plans to file the ruling.

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— PAGE 23

— COMMERCIAL APPEAL

— MEMPHIS, TENN.

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# Defense Attorney Planning Appeal

Reacting sharply to Judge Robert M. McRae's denial of a new trial for James Earl Ray today, a defense lawyer said he will appeal, and Ray's brother said Ray may "reveal the names of everyone involved" in the slaying of Dr. Martin Luther King.

**Bernard Fensterwald, one** of Ray's Washington attorneys, said, "I can only say that I am disappointed in the decision, and that we have every intention of appealing it to the Sixth District (U.S. Circuit Court of Appeals.)"

**Jerry Ray, Ray's brother,** said, "This case is still a long way from over. My brother will appeal. If he doesn't win his appeal, he will have no choice but to release his information to the news media. I'm talking about the names of the other people involved.

"He told me personally that, if he did not win an appeal, he would reveal the names of everyone involved. There seems to be a lot of people who don't want his story to get out, but they are not going to hush him up."

Jerry Ray added, "It does not surprise me that McRae turned him down. Judges have always turned him down. I don't think there's any difference in one judge from another. McRae just took a long time so he could write his opinion down in hopes it wouldn't be reversed.

"Right now, that's our only hope — that the court of appeals will reverse the ruling."

**Fred Davis, member of** City Council and of the NAACP, said, "I think that a very carefully prepared and well presented argument was made at the time of his trial. I think the investigations carried on by the state were done as well as they could be at the time. He had good representation.

"I think he pleaded guilty because he was guilty. As far as a conspiracy or having accomplices or anything

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PAGE 1

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my opinion that it would be terribly difficult for a man who committed such an act to get away and as far away as he did. My opinion is that he had some help. I don't know whether from within or without the city.

"I believe he seriously counted the cost of going through a trial or pleading guilty. I think his lawyers explained his options and he took the percentages and pleaded guilty. If he were permitted to go free after such an atrocity, it would be a terrible injustice. I'm pleased with the verdict."

Dr. Vasco A. Smith Jr., dentist, member of County Court and member of the executive board of NAACP, said, "It has been my feeling all along that this was the sort of crime that could not be committed by one person, and I was hoping that a new trial might be granted in the hope that the whole truth might be found and that other individuals who might be involved could be brought to justice. Without the new trial this is impossible and the real truth will never be known."

Mrs. Maxine Smith, executive secretary of the Memphis Chapter of the NAACP and a leader in the sanitation strike that brought King to Memphis, said, "I'm disappointed in the decision. There has been too much tendency in this country to bury an issue, to get rid of it rather than root it out. I feel a trial would have rooted out the doubt about all the facts not being brought out in the killing of Dr. King. The opinion is pretty widespread in this country that this killing was not a solo act."

Ralph Abernathy, who took the helm at Southern Christian Leadership Conference based in Atlanta after the late Dr. King's assassination, said, "It is most regrettable that U. S. Dist. Judge McRae has seen fit to deny James Earl Ray a trial in his accused assassination of my dearest friend and closest associate.

"This is not to say that James Earl Ray may not have been the man who pulled the trigger, but I firmly believe that there were more people involved, some of them in very high places and positions of leadership in this country." Calling King "the most peaceful warrior of the 20th century," Abernathy said a trial would "establish once and for all whether an attempt is being made by so-called respectable leaders in our country to silence and destroy our black leadership."

Abernathy said, "The fact that a man cannot get a trial under our judicial system" was something "I cannot accept." "This makes me even more suspicious," he said.

Mrs. Martin Luther King, wife of the slain civil rights leader, said she would not comment on any aspect of James Earl Ray's appeal when she was contacted in Atlanta.

Robert I. Livingston, Memphis attorney for Ray, said, he is "not surprised" that the ruling denied a new trial.

He pledged "to appeal it until there is no place else to go."

Livingston said he felt the case "could have gone either way. I wouldn't have been surprised of the ruling had been for James Earl Ray."

Livingston said he would review the ruling "with a fine-toothed comb," before filing an appeal with the U.S. Sixth District Court in Cincinnati.

"We don't intend for any grass to grow under our feet," said Livingston. "We don't intend to give up now."

Livingston said Ray and his attorneys had been "very optimistic all the way through. No judge could have granted a more fair hearing. We have already made legal history with the decision that Judge McRae made."

Livingston predicted that the case would "eventually end up in the Supreme Court.

"He ruled against us, but we have two more courts upstairs who could rule against him."

Livingston, admitting that he was "somewhat let down at the moment," said, "No judge in the state of Tennessee has ever ruled for James Earl Ray. Our hope is in the appeals courts. We feel our salvation lies in Cincinnati, and frankly, we felt that from the start."

Livingston said he would visit Ray in his Nashville prison cell within the next few days. He said that Ray had been "optimistic" about the ruling and had been "encouraged about the hearing.

Livingston renewed his charges that the assassination was part of a conspiracy. "The day will come when the conspiracy will be revealed'" he said. "I submit the federal government and the state know it's a conspiracy, but have whitewashed the facts."

Livingston said he was "hopeful" that the appeals courts would overrule McRae.

"If James Earl Ray's constitutional rights were not violated, there never has been a man who's constitutional rights were violated."

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# JUDGE DENIES NEW TRIAL FOR RAY

(Indicate page, name of newspaper, city and state.)

PAGE 1

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## His Attorneys Will Appeal 'All the Way'

By KAY PITTMAN BLACK
Press-Scimitar Staff Writer

U.S. District Judge Robert McRae Jr. today denied a new trial to James Earl Ray, convicted of slaying Dr. Martin Luther King.

Ray's attorneys said they would appeal, all the way to the Supreme Court if necessary.

In an extensive review of Ray's contention that his constitutional rights were violated and that he was coerced by his former attorneys to plead guilty, Judge McRae found no grounds to order a new trial.

Ray maintained in an eight-day hearing before Judge McRae in late November that his Sixth Amendment rights were violated.

In his ruling, Judge McRae said, "The court finds that the Sixth Amendment constitutional rights of James Earl Ray were not violated, nor were rights under any other amendment of the United States Constitution violated.

"Therefore," the ruling said, "the clerk of the court is hereby directed to enter a separate judgment denying the petition for a writ of habeas corpus."

Judge McRae pointed out

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that there was evidence in the record to show that attorneys were ready to go to trial before the late Criminal Court Judge Preston Battle accepted Ray's guilty plea on March 10, 1969. "For the above reasons this court finds that Ray did not reasonably believe he had no other choice than the guilty plea."

In the 38-page ruling, McRae said of the central issue —lack of effective assistance of counsel: "This Court is of the opinion that the petitioner Ray has not shown that his assistance from counsel was below the minimum standards. The record also shows that Ray's guilty plea otherwise was intelligently given in all respects as required by the constitutional standards."

Judge McRae said he also believed that Ray voluntarily pleaded guilty and was "not coerced by impermissible pressure."

"On the contrary," McRae said, "the matter was discussed on numerous separate occasions over almost one month at the least. Ray carefully considered and partially amended the lengthy stipulation of facts that formed a basis for accepting his guilty plea, and Ray coolly and deliberately entered the plea in open court where he spoke to correct the record as he thought appropriate."

Judge McRae said of the conflict of interest accusations made by Ray — arising from the numerous book rights contracts involving the first attorneys, Arthur Hanes Sr. and Jr. and Percy Foreman, the last attorney, as well as the Alabama author, William Bradford Huie — that the contract negotiated by Hanes was an "apparent violation" of the disciplinary rule of the code of professional responsibility of the American Bar Association. The rule was adopted Aug. 12, 1969 (after Ray's plea) and was to become effective on Jan. 1, 1970.

The 40-year-old Ray is serving a 99-year sentence for the April 4, 1968, slaying of the civil rights leader in Memphis. He is in a cell by himself at the Nashville State Penitentiary and was expected to learn the news of the denial of his petition by television or radio.

King was slain by rifle shot. The state contends the shot was fired from the bathroom window of a rooming house on South Main. The shot struck King as he stood on the balcony of the Lorraine Motel.

During the evidentiary hearing, Ray contended that he thought he was in Memphis to participate in a gun-running scheme, not a murder. He claimed he was standing on the sidewalk outside the rooming house when the shot was fired and hinted at "others" involved in a conspiracy to kill King.

Ray's attorneys, Bernard Fensterwald and James Lesar of Washington and Robert I. Livingston of Memphis, maintained that no adequate pre-trial investigation of the Ray case was made; that Ray fired his original attorneys, the Haneses, because he felt they were more interested in promoting book contracts on the Ray story with Huie than in representing Ray.

Ray fired the Haneses the day before his trial was originally set and hired Foreman.

During the evidentiary hearing, Fensterwald claimed that Ray was "coerced" by Foreman into pleading guilty. Fensterwald said Foreman resorted to pressure and bribery to force Ray to plead guilty March 10, 1969.

Fensterwald said Ray pleaded guilty after a "fierce" verbal struggle with Foreman.

Because of pressure put on Ray by Foreman, Ray's lawyers maintained, Ray believed he had no choice but to plead guilty.

Ray's lawyers also maintained at the evidentiary hearing that a new trial should be ordered because, they stated, Foreman was not ready to go to trial and had not prepared to go to trial.

However, Hugh Stanton Jr., former assistant Shelby County public defender and now Shelby County attorney general, testified during the hearing that his office was appointed by Judge Battle to assist Foreman in preparing the case in December of 1968 and that they would have been ready for trial.

JAMES EARL RAY

JUDGE McRAE

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FD-350 (Rev. 7-16-63)

(Mount Clipping in Space Below)

# Ray Loses Bid For Trial

By MICHAEL LOLLAR

U. S. Dist. Judge Robert M. McRae Jr. yesterday ruled James Earl Ray is not entitled to a new trial because his 1969 murder confession was a "cooly and deliberately" reasoned exercise of free will.

In a 38-page opinion which Ray's attorneys said they will appeal, the Memphis judge said that although Ray's former attorneys should have "performed differently" in some respects, they did not violate his constitutional rights in any way.

Based on more than 20 separate findings — each adverse to the convicted slayer of Dr. Martin Luther King Jr. — McRae said the "total circumstances do not reflect a violation of the constitutional rights applicable to one who voluntarily pleaded guilty on the advice of competent counsel of his own choosing."

One of the focal points of Ray's case was his repeated claim that millionaire

James Earl Ray

Houston attorney Percy Foreman coerced his confession in a whirlwind of legal and practical pressures applied in the weeks before March 10, 1969.

McRae found that many of Ray's accusations against Foreman simply were "untrue." But, "The fact that Foreman was a braggart, that he used gross exaggeration, and that he was sometimes arrogant and overbearing is established by the proof.

"He (Foreman) admitted that he probably used words such as 'barbe-

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PAGE 1

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cue' or 'burn' for the death penalty when talking to Ray and his brothers. However, it is not a deprivation of constitutional rights for a lawyer to speak the language thought to be best understood by a repeated felon who had spent many years in prison, who was willing to fire lawyers or refuse their services, and who was holding back and lying to his lawyer."

**Ray's current attorneys, Bernard** Fensterwald and James H. Lesar of Washington and Robert I. Livingston of Memphis, claimed the supposed pressures by Foreman and Ray's previous attorney, Arthur Hanes of Birmingham, stemmed from their literary contracts with Hartselle, Ala., author William Bradford Huie. Hanes was to receive 40 per cent of any royalties from the book, but when he was replaced by Foreman the Houston attorney was assigned 60 per cent of the expected royalties.

Ray claimed Huie convinced Hanes and Foreman that the book would not sell if he stood trial and his testimony became "public knowledge" before the book was published. McRae relied on evidence to the contrary — that the guilty plea destroyed the appeal of the book and wiped out potential profits by Huie or the attorneys. An attorney for a New York publishing company had testified that sensational trials stimulate book sales as a general rule.

Asst. State Atty. Gen. Henry Haile, who argued the state's case, was presented by his staff with a cake iced with the word "Victory" when news of the ruling reached the State Supreme Court Building at Nashville. After a back-slapping victory party, Haile said, "I'm delighted and relieved. I felt good about our chances after the evidentiary hearing in October and Noveer, and I just can't say that I'm surprised. People who thought Ray would get a new trial would always follow it up by saying, 'Even though I think he did it.' "

**McRae's ruling indicated he agreed** with that theory. "In spite of attempts by his lawyers to explain to Ray that he was mistaken, Ray apparently operated on the assumption that he was not guilty of murder if it could be established that he was not the sole participant. This concept is a thread that runs through the entire account by Ray."

As the judge's ruling was announced in Memphis, Ray sat alone in his maximum security cell at the state penitentiary at Nashville, refusing to see reporters.

He accepted the news with "a trace of a strange smile on his face and that was all," said Corrections Department information officer Jim Gilchrist. Ray has served about six years of the 99-year sentence imposed after his confession to the April 4, 1968, slaying.

Fensterwald and Livingston, two of his attorneys, said they will appeal as soon as possible to the U. S. Sixth Circuit Court of Appeals at Cincinnati, and, "if necessary," to the Supreme Court. Livingston said, "I'm not too surprised by the ruling, because I felt it could go either way."

James Earl Ray's brother, Jerry Ray of Lake Zurich, Ill., said when he learned of the ruling that his imprisoned brother has promised to "reveal the names of everyone involved" if he is not granted a new trial. "There seems to be a lot of people who don't want his story to get out, but they are not going to hush him up."

**In Atlanta, King's widow, Mrs. Coretta** King, declined comment. "We are aware of the ruling that Judge McRae has handed down, and we will not have a statement." But, Rev. Ralph David Abernathy, King's successor at the helm of the Southern Christian Leadership Conference, said the ruling is "most regrettable. This is not to say that James Earl Ray may not have been the man who pulled the trigger, but I firmly believe that there were more people involved, some of them in very high places and positions of leadership in this country."

McRae's ruling followed a remand from the Cincinnati appellate court, which ordered the evidentiary hearing here to determine whether Ray was effectively assisted by counsel and whether his guilty plea was intelligently and voluntary made.

McRae said Ray's attorneys exceeded all minimum requirements for effective assistance of counsel, including their pretrial investigative work and their preparations up to and on the day that Ray conceded his guilt in open court before the late Criminal Court Judge Preston Battle.

Ray also had claimed the conditions of his solitary confinement and monitoring of his cell and legal correspondence violated his rights by weakening his physical and mental resistance to pressure and exposing defense strategy to his prosecutors. McRae relied on evidence that Ray's mental and physical health improved during his confinement here and that no mail, notes or monitored conversations revealed any aspect of defense strategy to the prosecutors.

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FD-350 (Rev. 7-16-63)

(Mount Clipping in Space Below)

# Ray's Attorneys Appeal Ruling

Attorneys for James Earl Ray, convicted slayer of Dr. Martin Luther King Jr., have mailed notice to the U.S. Sixth Circuit Court of Appeals in Cincinnati that they are appealing U.S. Dist. Judge Robert M. McRae's decision denying Ray a new trial.

After a nine-day evidentiary hearing in November, Judge McRae filed a written opinion last month denying a new trial for Ray, who is serving a 99-year sentence in the Washington penitentiary for the April 4, 1968, slaying. Ray had contended that he was coerced by his attorneys to pleading guilty on March 10, 1969 to the crime.

James Lesar of Washington, D.C., one of Ray's three attorneys, said the notice of the appeal was mailed yesterday. He said it would be about another month before he would have the actual appeal brief written up. Lesar said, however, that he thinks the appeals court will reverse Judge McRae's decision and order a new trial.

(Indicate page, name of newspaper, city and state.)

PAGE 2

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# March Pays Tribute to Dr. Martin Luther King

Flying flags and carrying placards demanding jobs and food for the poor, between 4,000 and 5,000 marchers, mostly black, marched today in commemoration of the seventh anniversary of the slaying of Dr. Martin Luther King Jr. in Memphis.

A black, red and green Black Nationalist flag led the way as marchers paid tribute to the Nobel Peace Prize winner who founded the Southern Christian Leadership Conference.

**King met his death from a** rifle bullet seven years ago, April 4, 1968 while in Memphis assisting striking sanitation workers.

Police security was light as the marchers made their trip from Clayborn Temple Church to Cook Convention Center. Memorial services will end tonight at the Monumental Baptist Church.

Marchers were led by the Rev. Jesse Jackson, national director of People United to Save Humanity (PUSH), Rep. Harold Ford, D-Tenn., the state's first black congressman, the Rev. Samuel Kyles, head of PUSH in Memphis, and Jerry Wurf of American Federation of State, County and Municipal Employees.

The march was co-sponsored by PUSH and AFSCME, Local 1733.

Joyful clapping and singing characterized the march, as participants chanted hymns, including "We Shall Overcome," while moving along the route.

"I am very pleased with the crowd," Ford said. "I think Memphians realize what we are doing, that is paying tribute to a great man who was assassinated in our city."

(Indicate page, name of newspaper, city and state.)

PAGE 12

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Among the marchers was a one-legged woman, Nancy Crump, 50, who said: "It sure makes me feel good. It gives me exercise and I think it's a worthwhile cause." Walking with a crutch, she made the march to Cook Center. She said it was her third.

Officers were on foot escorting the marchers along the route and uniformed patrols were located at intersections to block traffic.

Placards demanding more public service jobs, equal employment for blacks, food for the poor and black unity were worn by numerous marchers.

Two other black leaders also were honored in today's march, Malcolm X, muslim leader, and Medgar Evers, Mississippi Civil Rights leader, both slain during their work. Three crosses at Hernando and Linden commemorated them.

At the march's starting point, Fred Shaw, of PUSH, said:

"We are marching today so that Memphis and the nation will not forget the life and works of Martin Luther King."

**He also urged the crowd to** register to vote, saying: "If you are black and have not registered to vote, you are not black."

Absenteeism was high in city schools, particularly

At Booker T. Washington, 715 S. Lauderdale, one of two all-black high schools in the school system, 400 of 1,300 students were absent today. At Vance Junior High, 673 Vance, 188 of 746 students were absent.

**Mrs. Callie Stevens, assist**ant superintendent for the Southwest area, said schools in her area were reporting absenteeism between 20 and 50 per cent.

Dr. M. E. Olds, assistant superintendent for the Southeast area, said absenteeism was running as high as 30 per cent at some schools, and that the absentee count was unusually high at Hamilton and Messick High Schools.

City Sanitation workers, whose 1968 strike precipitated King's assassination were absent from work today en masse to join the march. A total of 1,400 workers, of the department's 1,472 employes, obtained absentee permits during the week, said Maynard C. Stiles Jr. director of the City Sanitation Department. The remaining employes were engaged in "paper work," minor repairs to equipment and in cleaning yards, Stiles said.

The march, characterized as a day-long "Holy Day", began with a memorial service at First Baptist Church of Beale Street. The orientation spot for marchers, at Hernando and Linden, was called "Holy City."

**At the Lorraine Motel,** where marchers paused to commemorate the spot where King fell, a plaque and bouquet of flowers marked where he was standing when he was shot, authorities say, from a rooming house on Main Street.

James Earl Ray, who pleaded guilty to firing the shot which killed King and is serving a 99-year sentence, is seeking a new trial on the slaying charges, contending he was pressured by his lawyer, Percy Foreman of Houston, into making the guilty plea. U. S. District Judge Robert M. McRae Jr. last month dismissed Ray's petition claiming his rights were violated, but Ray has appealed the ruling to the Sixth Circuit Court of Appeals in Cincinnati.

**Memphis State University** officials said MSU will begin an annual presentation of a Dr. Martin Luther King Jr. Distinguished Award in Human Rights to be given to a person "who exemplifies the qualities of justice, human decency and humanitarian concerns to which Dr. King dedicated his life." Announcement was made by Dr. John P. Beifuss, chairman of the University's academic senate, who said the award will be given, beginning next year, during the week of April 4.

A second award commemorating the work of Dr. King was announced by The National Endowment for the Arts in Washington, a matching $25,000 grant to the Mallory Knights' Dr. Martin Luther King Jr. Memorial Fund Drive to finance a public sculpture of Dr. King in Memphis.

Drive co-chairman Mrs. Jocelyn Wurzburg said $16,000 of the Mallory Knights' $25,000 goal for the sculpture has been raised.

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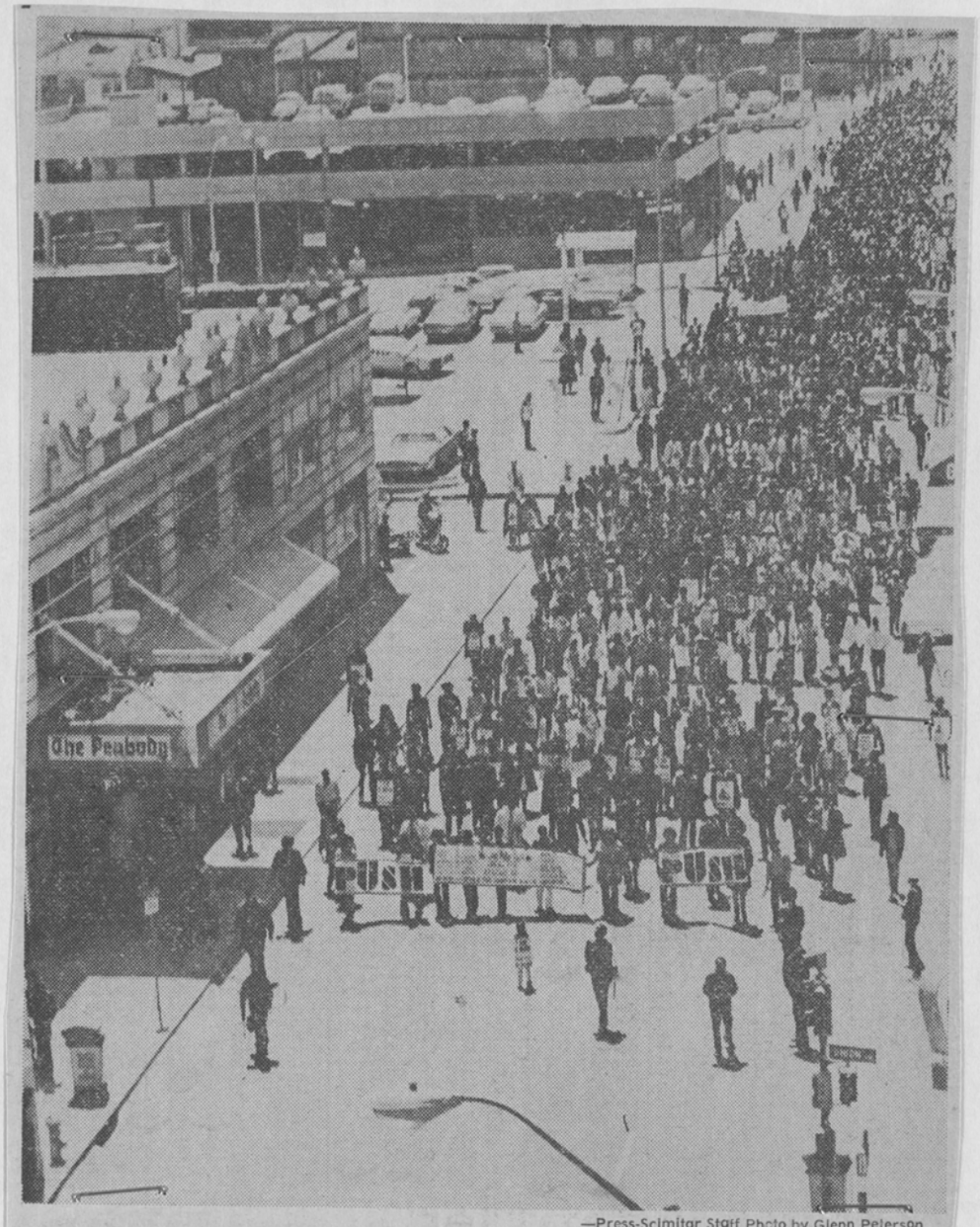


—Press-Scimitar Staff Photo by Glenn Peterson

**ESTIMATED 5,000 MARCHERS HONOR SLAIN DR. KING**
**Route passed historic Hotel Peabody, left, which closed its doors this week.**

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(Mount Clipping in Space Below)

# Ray Says He Was In Mississippi — When He Learned Of King's Death

By WELDON GRIMSLEY

The man who pulled the trigger on the gun that killed Dr. Martin Luther King Jr. is not in the Tennessee State Prison, according to James Earl Ray, the man serving 99 years for the slaying.

But Ray isn't saying who did fire the fatal shot.

Ray says he was en route to New Orleans when King was killed, and first heard of the shooting while about 80 miles inside Mississippi, south of Memphis.

**HE MADE THESE** statements during an exclusive interview at the prison last week.

He said he pleaded guilty to the charges in order to "get out of town (Memphis)," to end his association with attorney Percy Foreman and because he thought he could present enough new evidence "within about a year" to get a new trial.

Sitting on a wooden bench inside the administration building with his brother, Jerry Ray, and a newsman, Ray said fear of the electric chair — or discussion of the possibility he might be executed if he went to trial and was convicted — had nothing to do with the plea.

In fact, he said, the possibility never was discussed.

A main concern, he said, was fear that his attorney would "sell me out" during a trial.

**"HE COULD HAVE** told the court he thought I was guilty but still would

(Please turn to Page 12)

(Indicate page, name of newspaper, city and state.)

PAGE 1

___ NASHVILLE BANNER
NASHVILLE, TENN.

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